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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/261,030 03/02/99 NACK

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IBM CORPORATION  
PO BOX 12195  
DEPT 9CCA, BLDG 002  
RESEARCH TRIANGLE PARK NC 27709

EXAMINER

CUFF, M

ART UNIT

PAPER NUMBER

2167

DATE MAILED:

09/14/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
09/261,030

Applicant  
Nack

Examiner  
Michael Cuff

Art Unit  
2167



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1) ☒ Responsive to communication(s) filed on Aug 13, 2001

2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

4) ☒ Claim(s) 1-24 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 1-24 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some\* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

15) ☐ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

20) ☐ Other:

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swinamer et al. in view of Business Wire, p06160247, dated June 16, 1998.

Swinamer et al. shows all of the limitations of the claims except for specifying the use of a wireless management device/PDA including displaying information and sending information to and from the PDA and the POS via a central controller also using wireless modems.

Swinamer et al. shows, figure 1, a hardwired method of communicating (sending) request for management decisions (override details), including price information, credit clearance (monetary pick-up, approval), security alerts (lock up of POS) and other incidents requiring the manager's attention. This is done for a plurality of POS terminals. The manager is at the master station (central controller system) and can determine through verbal communication the satisfactoriness or unsatisfactoriness level of the POS terminal and has the ability to fix problems to ensure satisfactoriness.

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Business Wire, p06160247, dated June 16, 1998 teaches that on the Retail Systems '98 conference in New Orleans where 3Com demonstrated its popular PalmPilot (TM) (wireless management device which receives, displays, and sends information wirelessly through a central controller such as a WAN.) connected organizer at Retail Systems '98. The Palm computing platform is an open software architecture for handheld computing that provides an ideal basis for third-party developers to create innovative mobile computing solutions. During Retail Systems '98 using the PathBuilder (TM) line of a WAN, 3com showed new on-line applications to the store supporting functions like human resources, decision support, special orders, and customer delivery all in order to improve information flow to better serve customers.

Based on the teaching of the above Business Wire article, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the Swinamer system to incorporate the PalmPilots and WAN of 3com in order to improve information flow to better serve customers.

### ***Response to Arguments***

3. Applicant's arguments filed 8/13/01 have been fully considered but they are not persuasive.

Applicant asserts that the cited art fails to teach, show or suggest the recited utilization of a wireless communication of a mobile manager with a central controller for remotely monitoring and responding to a plurality of POS systems (page 4, bottom half). The examiner does not concur. The prior art does teach the metes and bounds of the claims as broadly recited. The

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examiner will explain that the Swinamer prior art shows well known managerial practices (receiving problems and making decisions) with old style communication methods between manager and POS attendants and that the Business Wire prior art teaches an improved communications system using Palm Pilots and a WAN system which provides “to the store supporting functions like human resources, decision support, special orders and customer delivery”. The examiner believes that it would have been obvious to one of ordinary skill in the art to implement the old and well known managerial practices by modifying the old phone/intercom communication system with more modern communications system such as 3Com’s Palm Pilots and a WAN system in order to take advantage of the technological communication improvements and to improve flow of information. *In re Venner*, 262F.2d91, 95, 120 USPQ 193, 194 (CCPA) is a case of interest where the court held that broadly providing an automatic or mechanical means to replace a manual activity which accomplished the same result is not sufficient to distinguish over the prior art. The examiner finds this case to be analogous in that the invention is merely further automating the managerial communication process.

4. The following addresses specific issues raised by applicant about the prior art.

Applicant asserts that, in Swinamer, the manager is not taught as being tied electronically to a POS. The examiner does not concur. In Swinamer, figure 5, the manager is more electrically “tied” (direct lines) to the POS devices (cashier stations) than the invention (wireless). Plus, “being tied electronically to a point of sale” is not claimed.

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Applicant asserts that, in Swinamer, there is nothing to teach receipt of override details at the register which are then sent to the computer. The examiner agrees that override details are not received at the register and then sent to a computer, but Swinamer does teach that override details are communicated via an intercom system, from the POS station, to a manger, remotely located, and an override signal (manager decision) is returned via an intercom system. The limitations regarding the computerized communications are met by the combination of references.

Applicant asserts that the “override details” all occur as a result of verbal communications and are not activities that are taught or suggested as occurring in the POS. The examiner believes that limitations regarding the computerized communications are met by the combination of references. As for applicant’s argument about “occurring in the POS”, the examiner asserts that this is an incomplete thought because leaves out if it is a POS device or a POS system which brings up an issue. Applicant mentions a “POS device” in the abstract, summary of the invention and in the claims, but it is never really defined. The detailed description talks about “POS systems 10, such as a set of registers in a grocery store”. It is shown in the figures as a box. On the first action, the examiner believed, given the scope of the claimed method, that the broad term of a POS system or device was obvious in its meaning. If applicant asserts that whether the “override details” come “in”, “at”, or “from” a barely defined POS device is the patentable subject matter, then the examiner will have to make rejections under 35 USC 112.

Applicant asserts that, in Business Wire article, there is nothing in the report that teaches wireless managers. A “wireless manager” is never claimed. As for a “wireless management

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device”, the Business Wire article does teach the use of a PalmPilot which is how applicant defines a mobile manager system (see page 4, line 4 of specification).

Applicant asserts that Business Wire is silent as to the use of a wireless device for receiving override details from a POS or for remotely monitoring and responding to a plurality of POS systems. This is not relevant. Swinamer teaches receiving override details from a POS and remotely monitoring and responding to a plurality of POS systems. The Business Wire article teaches an improved communications system which has the capability of doing the same functions as taught by Swinamer. Applicant’s specification supports that 3Com’s PalmPilot device has this capability.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,


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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication should be directed to Michael Cuff at telephone number (703) 308-0610.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900. The fax phone number for this Group is (703) 308-6306.

  
ROBERT P. OLSZEWSKI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600 2100

  
Michael Cuff  
September 12, 2001